UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/697,024	10/25/2000	Bob Lamoureux	W0001-004001	3438

				EXAMINER
28089	7590	05/17/2006		FISCHETTI, JOSEPH A

WILMER CUTLER PICKERING HALE AND DORR LLP
399 PARK AVENUE
NEW YORK, NY 10022

ART UNIT	PAPER NUMBER
3627	

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/697,024	LAMOUREUX ET AL.
	Examiner	Art Unit	
	Joseph A. Fischetti	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 February 2006*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12-33 and 44-46* is/are pending in the application.

    4a) Of the above claim(s) *44-46* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 31, 33, 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 31,33,28

Claim 31 is indefinite because of the infinite meaning peer to peer has, there must be some further defining recitation to make the language definite.

Claim 28 it is not understood what bundle version identifying signal are and how this further defines the invention?

Claim 33, "blending content" is unclear, what content is being blended and again NAB for detection condition.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 12-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowman-'234 in view of Frey.

Bowman-'234 discloses distributing information bundles from different ones of a first plurality of different networked users to different ones of a second plurality of different network users according to a machine-readable format that includes values for a plurality of content attribute descriptors -see col. 233 lines 56 et seq. wherein it is stated that each data stream "includes an attribute descriptor defining elements of the data". Hence Bowman'234 reads on -assembling information into bindles, wherein each bundle consists of a data element reference and meta data describing the data element-.

But Bowman appears silent regarding each element remaining resident on a node of a data owner in a network.

However, Frey discloses networked 42,42 nodes which use a block identifier 56 is used to describe the data element (file is a data element and is assembled at node see col. 5 line 43) to which it is attached and the block identifier (the equivalent of metadata) is distributed through the network through the intermediary of the distributed Directory col. 6, lines 55 –56. Frey further disclose distributing copies of the data elements in the data blocks/bundles to the network nodes of accessors (copying occurs whenever file is retrieved from the resident node by another's computer and the data is copied into volatile memory(see Napster copyright cases), following selection of the data elements by the accessors (selection occurs via the distributed Directory).

It would be obvious to modify Bowman 234 to associate each bundle with a node and to assemble same there at in order to effect a node associated bundle and to copy the data element s to a user computer using a selection process such as the directory in Frey, the motivation being the ability to make changes to the data resident at the user's node and to allow easier access to the information.

The file access manager 44 is read as the owner.

Re claims 13,15: each bundle in Bowman must inherently include security information identifying entitled accessors of the data, and wherein the step of distributing distributes the bundle to the entitled accessors given that Bowman discloses:

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Security usually resides on both the client and server platform
in a distributed environment. True security should always be
placed on the server platform, to protect the system through
access outside of a client application.

Is there a direct/indirect relationship between the user
role/group and the data/services?

There are situations where it is required for the system to
maintain the relationship of the users role and the users access
to specific system services/resources. For example, a database
administrator will have read-write-delete access to the database,
whereas a sales manager will have only read access to it for
viewing the data in various forms. The security component should
provide the functionality for validating the users resource
access privileges based on the role of the user.
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Re claim 15: The user resource access privileges are read as authorized network users.

Re claim 14:   Official Notice is taken regarding the old and Notorious use of

negotiating trusted relationships between owners and accessors to define security

information.

Re claim 16. sales manager versus administrator restrictions are formats which

for the security information allowing for organization identifiers.

Re claim 17. In Frey the file access manager defines the block ID 56 which is

the equivalent of the meta data in Bowman and the motivation for this motivation is

herein repeated.

Re claim 18. Bowman discloses tracks access to data :

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     Directory   service   products   utilize   Security   services   to
track   access   rights   for   access   to   network   resources   and
information.  The  Directory  service  is  an  efficient  way  to  manage
resource   security,    since   the   directory   offers   a   logical
representation  of  all  resources  in  the  enterprise.  In  addition,
the  Directory  service  can  act  as  a  single  point  of  entry  into
the   network,   meaning   users   can   receive   access   to   allowed
resources   by   authenticating   themselves   a   single   time   to   the
Directory  service.  (For  more  information  on  authentication  and
authorization,  refer  to  the  Comm.  Security  service.)
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Thus the step of step of recording the distribution of data element copies to accessors

and associated information concerning the transaction is met.

Re claim 19: what the meta data describes is a matter of design choice.

Re claims 20, 21,22,23, and 24: Frey discloses a file block composed of a nested

plurality of subfiles. This teaching when applied to Bowman will obviously result in the

creation of superbundles equivalent to the block which includes the plural files. It is obvious that access only to the part will only derive access to the whole. The presentation of alternative content to those not qualify for access is old and official notice ids taken. In Frey different nodes can cause access to other's information. In Bowman each bundle would in the same manner as that file id in Frey references a file not included in the whole of the identifier to save bandwidth.

Re claim 25: the type of file is deemed a matter of design choice.

Re claims 26,27:In Frey files in one node refer to those of another It would be obvious to include this feature in Bowman to reduce bandwidth.

Re claim 28: (as best understood) the signals associated with block identifier of Frey are read as the bundle version id signals.

RE claim 29: Insofar as it is understood, Official Notice is taken regarding the old and notorious use of updating data.

Re claim 30: Official Notice is taken regarding the use of filtering in data management.

RE claim 31: (as best understood) the user taking content from a node is read as a peer to peer transfer.

Re claim 32,33: (as best understood) Bowman bundles in accordance with necessary data which is read blending content and is a topical alert to business objects detected.

EXAMINER"S REPLY

Applicant's argument filed 2/16/06 are considered but are not persuasive.

Applicant argues that Bowman does not disclose assembling information into bundles.

However, to the contrary, Bowman discloses:

(2410)   FIG. 119 illustrates the transmitting of all data in a
Data Structure 11900 from a client 11902 to a server 11904 and
visa-versa.   As shown, to maximize the performance on the
client, it is best to bundle all the necessary data into a
single data structure that can be transmitted as a structure
across the network. ... The business object bundles all the data
into a data structure and returns it to the client. The
Client will cache this data (using the Caching Proxy pattern) on
its local client machine and use it as needed.

Applicant next argues that Bowman further fails to disclose each bundle

comprising a data element reference and mea data describing the data element.

However, to the contrary, Bowman discloses:

(2324)   FIG. 105 illustrates a flowchart for a method 10500 for
providing a self-describing stream-based communication system.
Messages are sent including data between a sending system and a
receiving system in operation 10502.
Meta-data is attached to the messages being sent between the
sending system and the receiving system in operation 10504. The
data of the messages sent from the sending system to the
receiving system is translated based on the meta-data
in operation 10506. The meta-data includes a first section that
identifies a type of object associated with the data and a
number of attribute descriptors in the data. Also included is a
second section that includes a series of the attribute
descriptors defining elements of the data.

(2325)   As an option, the sending system and receiving system
may each be equipped with logic for interpreting the meta-data
of the messages. As another option, the elements may be defined

in terms of size, type, and name. Versions of the present
invention include a version where one of the systems may be an
object-based system and one of the systems may be a non-object-
based system, a version where both of the systems may be object-
based systems, and even a version where both of the systems may
be non-object-based systems.

(2326)   Stream-based communication is a very effective pattern
for relaying data, data structures, and meta-data. Meta-data is
information about the data, such as data structure, data types,
etc. using a shared, generic format. How can the message format
be shared between systems so as to create the most flexible
stream-based communication mechanism?

Applicant is reminded that Bowman is not being relied on for the distributing

feature recited in the last paragraph of claim 12 as Applicant's remarks incorrectly lead

the reader to believe. Frey is relied on for teaching using the meta data the meta data

to distribute copies of the data to nodes of accessors because the block identifier which

is read as the equivalent of the meta data in Bowman is used to effect copying.

Applicant next contradicts the teaching of MPEP Sec. 2112 by arguing "inherency

cannot be applied in an obviousness rejection". This statement is in direct

contradiction with MPEP sec. 2112.

MPEP Sec. 1212 states inter alia.

"The express, implicit, and inherent disclosures of a prior art reference may be

relied upon in the rejection of claims under 35 U.S.C. 102 or 103. "The inherent

teaching of a prior art reference, a question of fact, arises both in the context of

anticipation and obviousness." In re Napier, 55 F.3d 610, 613, 34 USPQ2d 1782, 1784 (Fed. Cir. 1995) (affirmed a 35 U.S.C. 103 rejection based in part on inherent disclosure in one of the references). See also In re Grasselli, 713 F.2d 731, 739, 218 USPQ 769, 775 (Fed. Cir. 1983).

The cited case of Ex parte Schicker is clearly distinguishable from the instant application because the Board there was not sure if the examiner had applied a 102 or 103 rejection and was left to guess as to what was being applied. Here there is no question that the independent claim 12 was made subject to a 103 rejection, and that only the features of dependent claims 13 and 15 are being termed inherent to Bowman by virtue of the disclosure set forth in the inherency statement. Even if the inherency statement were to be considered flawed –which it is not- there is still a sufficient example given in the office action for where in Bowman there is an inherent disclosure of the features in claims 13 and 15.

Applicant has wrongly confused the rejections of claims 14,19,25,29,30 as being rejected under a "Judicial Notice of Design Choice" which the examiner has never expressed in the office action and questions where such a term originated. To the contrary, claims 14 and 29, 30 are clearly rejected using Official Notice and mentions nothing of design choice. Claims 19 and 25 which recite the use meta data as a ticker symbol and files which are audio, video or graphic. These are just applications of known elements and depend only on the desire of the user to apply the meta data or file to a design.

However, regarding claims 14,29 30 the official notice is challenged and the following references are cited:

Re claim 14 trusted relations established for security purposes: US 6957199.

Re claims 29, 30 updating and filtering associated with media col. 16 lines17-20.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.

Joseph A. Fischetti
Primary Examiner
Art Unit 3627